



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/171448

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on February 16, 2016, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to a BadgerCare Plus extension.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The Great River Consortium notified the petitioner on September 14, 2015, that she must complete her BadgerCare Plus renewal application by October 31, 2015.

3. On September 17, 2015, the consortium informed the petitioner that she must report any changes in household composition and income by October 31, 2015, the date her renewal application was then due. That notice did not instruct her to verify any of her relevant information.
4. On November 24, 2015, the consortium notified the petitioner that she must verify her employment at the [REDACTED] and her husband's unemployment by December 3, 2015.
5. On November 24, 2015, the consortium notified the petitioner that the date she would renew her BadgerCare Plus benefits was extended to December 3, 2015.
6. The petitioner provided the income verification requested by the consortium on January 8, 2016.
7. The county agency ended the petitioner's BadgerCare Plus benefits as of November 1, 2015, and did not allow an extension because she contends she did not verify her income.

DISCUSSION

When a household's income increases from below 100% of the federal poverty level to above that amount, those already receiving benefits remain eligible for another year under a BadgerCare extension, regardless of their income. *BadgerCare Plus Eligibility Handbook*, § 18.1. The BadgerCare Plus policy in the section specifically pertaining to "losing an extension" states that a BadgerCare Plus recipient loses an extension if "[s]/he fails to provide verification of income and at least one parent/caretaker in the extension AG [assistance group] is not disabled, a tribal member, or pregnant." *BadgerCare Plus Handbook*, § 18.5.1.4. An earlier section states that "if a case closes for lack of...verification and [the household] then later reapplies, they would not be eligible for the Extension." *BadgerCare Plus Handbook*, § 18.1.1. A lack of verification occurs when a recipient does not submit the verification within the timelines set by medical assistance law and the local agency. Medicaid applicants must verify relevant information within 30 days of their application date or within 10 days of when the information is requested, whichever is later. Wis. Admin. Code, § DHS 102.03(1) and (3); *Medicaid Eligibility Handbook*, § 20.7.1.1.

The petitioner had been receiving BadgerCare Plus. Her renewal was due by October 31, 2015. As part of her renewal, the Great Rivers Consortium requested on November 24, 2015, that she verify her and her husband's income by December 3, 2015. She didn't verify the income until January 8, 2016, and the agency denied an extension to her.

The petitioner contends that her benefits ended before then. The evidence is a little vague, but it does appear that they ended on October 31, 2015. The agency indicates that this is because she didn't verify her income before then. It also states that because her case closed, she cannot receive an extension. The flaw in this argument is that there was no verification due, and thus no basis for denying the extension, until December 3, 2015. It is true that she did not provide this information when it was due, and this would have given the agency a basis for ending any extension, but this could not have occurred until after December 3, which means her benefits would have continued until the end of the year. At that point, the agency could have ended the benefits. Because they would have been ended because of lack of verification, she would no longer have been eligible for an extension. Based on this, I will order the agency to find her retroactively eligible for medical assistance during November and December 2015.

This decision applies to the petitioner's husband. His matter was dismissed because it duplicated this one. See *DHA Decision No. 18 BCS-171456*.

CONCLUSIONS OF LAW

1. The agency improperly denied a BadgerCare Plus extension to the petitioner for the months of November and December 2015 because it had not yet requested that she verify her income.
2. The petitioner is not entitled to a BadgerCare Plus extension from January 2016 forward because she failed to verify her income when that verification was due.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it find the petitioner and her husband retroactively eligible for BadgerCare Plus for November and December 2015.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 21st day of March, 2016

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 21, 2016.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability